

THE TRIAL OF P. EGNATIUS CELER

The literary sources for the Flavian and Antonine periods of Roman history, it is a notorious and unhappy fact, where they exist at all, are infuriatingly fragmentary, frequently obscure, too frequently inaccurate or mendacious. Significant gaps still linger even in chronology;¹ hence it can hardly occasion surprise that we are rarely permitted a glimpse of the political activity which preoccupied the emperors and Senate. The principate of Vespasian in this respect is more elusive than most; it has taken the combined efforts of scholars in diverse specialties to elaborate a narrative, not of fact, but merely of conjecture.² A minor and seemingly innocuous episode during the surrogacy of Licinius Mucianus which sheds new light on the critical inaugural month of this shadowy decade accordingly acquires disproportionate significance. The trial and conviction of P. Egnatius Celer dramatically betrays the delicacy of Mucianus' position, and may further reveal the political tactics of one bloc of intriguers within the Senate early in A.D. 70 whose goals are already clearly on record.

After the death of Vitellius late in December of 69, the temper of the Senate was fractious and recriminatory. Tacitus has etched in bold strokes the bitter exchange between the Stoic Helvidius Priscus and the infamous Neronian delator Eprius Marcellus, touched off by a motion of the consul designate that an embassy of congratulation be sent to Vespasian (*Hist.* 4.6–8).³ A tribunician

¹ Joseph. *BJ* 7.401 informs us that Masada, the last stronghold of Jewish resistance, fell on 15 Xanthicus, but of what year? A.D. 72, argued in unconvincing detail by B. Niese, 'Zur Chronologie des Josephus', *Hermes* 28 (1893), 211–12, is still assumed by A. Garzetti, *From Tiberius to the Antonines*, trans. J. R. Foster (London, 1974), p.233. The most frequently cited date is A.D. 73—cf. *inter alia* Y. Yadin, *Masada. Herod's Fortress and the Zealots' Last Stand* (New York, 1966), p.15; S. G. F. Brandon, *Jesus and the Zealots* (Manchester, 1967), p.143—but an ingenious epigraphic argument for A.D. 74 recently promulgated by W. Eck, 'Die Eroberung von Masada und eine neue Inschrift des L. Flavius Silva Nonius Bassus', *ZNTW* 60 (1969), 282–9, and *Senatoren von Vespasian bis Hadrian* (Munich, 1970), pp.93–103, has not failed to obtain support; cf. E. Schürer, *The History of the Jewish People in the Age of Jesus Christ*, rev. and ed. G. Vermes and F. Millar, I (Edinburgh, 1973), pp.512 n.139, 515. Despite the sensible criticism of this date in C. P. Jones, *Gnomon* 45 (1973), 689, and *AJPh* 95 (1974), 89–90, there is a danger that it will acquire a broader following. The *termini* for Domitian's offensive against the Chatti pose a similar dilemma; cf. H. Braunert, 'Zum Chattenkriege

Domitians', *BJ* 153 (1953), 97–101; B. W. Jones, 'The Dating of Domitian's War Against the Chatti', *Historia* 22 (1973), 79–90; *contra*, J. K. Evans, *Historia* 24 (1975), 121–4.

² The diplomatic link between Tib. Iulius Alexander and Vespasian in the months immediately before the latter's proclamation in A.D. 69, it has been plausibly speculated, was a certain Basilides; see K. Scott, 'The Role of Basilides in the Events of A.D. 69', *JRS* 24 (1934), 138–40. The part is assigned to Berenice by P. B. Sullivan, 'A Note on the Flavian Accession', *CJ* 49 (1953), 67–70, 78. In an important paper, 'Titus and Berenice', *AJPh* 72 (1951), 162–75, J. A. Crook has claimed that the very nature of their positions made Titus and Mucianus natural rivals after the Flavian victory, and that this split dominated the politics of Vespasian's reign. The argument throughout has the force of logic, but there is no evidence to confirm it.

³ This nameless magistrate-elect is undoubtedly D. (?) Valerius Asiaticus, for several months in A.D. 69 Vitellius' son-in-law. He is addressed as *consul designatus* earlier in the narrative of this same Senate session, where he also appears as the author of proposals honouring various members of

veto shut off debate on measures to improve the parlous condition of the *aerarium Saturni*, and Helvidius' proposal that the Capitol be restored at public expense only caused further discomfiture (*Hist.* 4.9). 'Tum invectus est Musonius Rufus in P. Celerem, a quo Baream Soranum falso testimonio circumventum arguebat.¹ ea cognitione renovari odio accusationum videbantur' (*Hist.* 4.10). There is ample justification, then, for Tacitus' summary comment: 'tali rerum statu, *cum discordia inter patres*, ira apud victos, nulla in victoribus auctoritas, non leges, non princeps in civitate essent, Mucianus urbem ingressus cuncta simul in se traxit' (*Hist.* 4.11).

The following session was designated for the trial,² in fact one or two meetings supervened before Musonius resumed his prosecution in January.³ Neither Domitian, who had summoned the Senate by virtue of his consular *imperium* (*Hist.* 4.3), nor Mucianus, hovering somewhere in the background, intervened, and as a result the condemnation of Celer was speedily compassed (*Hist.* 4.40). Confiscation and exile presumably followed in due course.⁴

Given the current mood of the Senate, the postscript was as predictable as it was inevitable. Iunius Mauricus, a young Stoic whose own exile for *maiestas* would follow from delation late in the reign of Domitian (Tac. *Agr.* 45; Plin. *Ep.* 3.11), immediately requested that the Senate be empowered to peruse the *commentarii principales* in order to ascertain the source of the several indictments lodged under Nero. Domitian, whether coached by Mucianus or not, aptly responded with the now time-honoured plea that this was a matter deserving the personal attention of the *princeps* (*Hist.* 4.40).

At this point Mucianus, for all his political acuity, seems momentarily to have lost control of events. An oath was hastily conceived and administered to each senator individually, requiring them to deny personal profit from the destruction of a fellow-citizen. This tortuous and disruptive exercise culminated in the physical expulsion of Sarioleus Vocula and the consular Paccius Africanus from the *curia* (*Hist.* 4.41), which prefaced a heated denunciation of Aquilius Regulus by Curtius Montanus (*Hist.* 4.42). Both exacerbated tensions which it was clearly in the interest of Mucianus to placate, since he was already immersed in a power-struggle with Antonius Primus (*Hist.* 4.39) and also required time to dispose of the unruly and potentially dangerous Othonian and Vitellian troops still in Rome (*Hist.* 4.46).

The Republican element in the Senate, however, must have welcomed this

the Flavian leadership (*Hist.* 4.4). For the vicissitudes of his career in 69, and for a possible explanation of the curious suppression of his name in *Hist.* 4.6, 8–9, see G. B. Townend, 'The Consuls of A.D. 69/70', *AJPh* 83 (1962), 125–9.

¹ The statute in question was the *lex Cornelia de falsis, quae etiam testamentaria vocatur* (*Inst.* 4.18.7; cf. *Dig.* 48.10.1.1) as amended by the *SC Libonianum*, perhaps of A.D. 16 (see Th. Mommsen, *Röm. Strafr.*, p. 671), and edicts of Claudius (*Dig.* 48.10.14.2, 15 praef.) and Nero (Suet. *Nero* 17).

² Tac. *Hist.* 4.10: 'proximus dies causae destinatur . . .'

³ R. S. Rogers, 'A Criminal Trial of A.D. 70 (Tacitus, *Histories*, 4.44)', *TAPA*

80 (1949), 348, rightly deduced from the language of *Hist.* 4.39–40 that the minutes of two different sessions were being paraphrased. Tacitus dates the first to the *kalends* of January, and Rogers believes the second to be the meeting regularly scheduled on the *ides*. That may be correct, but it could also have occurred on 3 Jan., when the senators assembled to pray for the emperor's well-being (Plin. *Ep.* 10.35, 100; Dio Cass. 59.24).

⁴ *Dig.* 48.10.1.13: 'poena falsi vel quasi falsi deportatio est et omnium bonorum publicatio'. H. von Arnim, 'Egnatius' no. 16, *RE* 5 (1905), 1996, mistakenly says that he was put to death.

turbulent sequence of events, for it presented Helvidius with an opportunity to renew the prosecution of Eprius Marcellus which he had reluctantly abandoned during the reign of Galba (*Hist.* 4.6, 43). If the destruction of Marcellus could be effected, then judicial vengeance might be visited upon every Neronian delator.

Mucianus had no recourse but to check the threat at the outset. In the aftermath of two civil wars, such a purge of the Senate was clearly not the design of Vespasian. If Mucianus could not prevent it, then his *auctoritas* within the Flavian party and political ambitions alike would be forfeit. In the event, a legal technicality enabled him to make the point diplomatically, avoiding a confrontation. Undoubtedly well rehearsed for the part, at the next gathering of the Senate Domitian exhorted his colleagues to put an end to strife and recrimination, while 'Mucianus censuit prolixè pro accusatoribus' (*Hist.* 4.44). Then the latter gently reproved Helvidius: his renewed prosecution of Eprius Marcellus contravened the *SC Turpilianum* of A.D. 61, which forbade a prosecutor who had abandoned a case to reopen it on the same charges.¹ The hint was sufficient—'patres coeptatam libertatem, postquam obviam itum, omiserunt'. In order to mitigate the disappointment of Helvidius and his sympathizers, Mucianus closed by ordering that the exiles Octavius Sagitta and Antistius Sosianus be sent back to the islands from which they had returned during the civil wars, but that symbolic gesture failed to impede his increasing unpopularity. Neither Sagitta nor Sosianus had practised delation, and it was the delators whose ruin was so eagerly desired (*Hist.* 4.44).

The only substantive result of the entire episode was thus the conviction and exile of Egnatius Celer. Since the sequel which has just passed in review could be foreseen, and Mucianus manifestly could not profit from it, it now seems legitimate to ask why he permitted the trial to proceed at all. Tacitus lamely avers that the 'vilis et nocens reus protegi non poterat' (*Hist.* 4.10)—an answer that is inadequate as well as uninformative, for even if his guilt was admitted it still does not follow that Celer must inevitably suffer prosecution. A more plausible explanation may emanate from another Tacitean passage, inserted in a speech of Helvidius: 'fuisse Vespasiano amicitiam cum Thræsea, Sorano, Sentio' (*Hist.* 4.7). Even that, moreover, is a masterly piece of understatement—Vespasian and Barea Soranus had recently been *adfines*.

Upon the decease of Arrecina Tertulla, his first wife, Titus had wed Marcia Furnilla, the daughter of Antonia Furnilla and the senator Q. Marcius Barea Sura (*Suet. Tit.* 4),² probably the brother of Barea Soranus.³ The marriage, however, terminated abruptly in divorce, despite the birth of a daughter.⁴ The reason for

¹ 'Simul eos qui coeptam, deinde omissam actionem repeterent, monuit sermone molli et tamquam rogaret.' It was again R. S. Rogers, *TAPA* 80 (1949), 348, who acutely observed the relevance of *Dig.* 48.16.4.1 to this passage. Cf. Th. Mommsen, *Röm. Strafr.*, p.500.

² On the Marcii, father and daughter, see F. Miltner, 'Marcius' nos. 38, 126, *RE* 14 (1930), 1549–50, 1606–7. *CIL* 6.31766 = *ILS* 953 has preserved his paternal ancestry for three generations; for its significance, see p.201 n.4 below.

³ *PIR*² B 55. Although he does not elaborate, R. Syme, *Tacitus* (Oxford, 1958),

p.829, claims that the two men were in fact one and the same.

⁴ It is usually assumed that this was (Flavia) Iulia; cf. P. Weynand, 'Flavius' no. 207, *RE* 6 (1909), 2698; F. Miltner, *RE* 14 (1930), 1607; *PIR*² F 399, 426; G. B. Townend, 'Some Flavian Connections', *JRS* 51 (1961), 57, but H. Castritius, 'Zu den Frauen der Flavii', *Historia* 18 (1969), 492–94, has ably argued that Iulia was the daughter of Arrecina Tertulla, with the infant born to Marcia Furnilla one of the unknown *filiae* of Titus attested by Philostr. *VA* 7.7.

the separation, it is now recognized, was patently political. After the destruction of Barea Soranus and his daughter Servilia, one of the most sordid scenes of Nero's reign (Tac. *Ann.* 16.23, 30–33), Vespasian could not afford to perpetuate an alliance which would add to his own discredit and endanger the careers of his sons.¹ Still, a residual bitterness might be expected, directed particularly toward those responsible for the crisis. Accordingly, the suspicion arises that Celer's actions were indefensible and his trial expedient because Mucianus believed that his condemnation would requite the new emperor's embarrassment, while an effort to prevent it might subsequently earn his displeasure.

The undistinguished marital fortunes of Vespasian's family before the match with Marcia Furnilla strengthen this suggestion. Recently, it has been convincingly argued that Vespasian married the former slave and concubine of an African knight (Suet. *Vesp.* 3).² The first wife of Titus was of equestrian lineage (Tit. 4). Q. Petillius Cerialis, apparently Vespasian's son-in-law,³ to be sure was a member of the *ordo senatorius*, but tainted with the disgrace of having led his legion into a *clades* from which he effected a cowardly escape (Tac. *Ann.* 14.32). The incompetence of another *adfinis*, L. Caesennius Paetus, fully merited the humiliation which he suffered at the hands of the Parthians in Armenia (*Ann.* 15.7–16). The very mediocrity of this record casts Titus' marriage to Marcia Furnilla, described by Suetonius (Tit. 4) as *splendidi generis*,⁴ into bold relief. A notable social coup for the Flavii, Vespasian must have severed the connection very reluctantly and with great disappointment, for he did not renounce even his unprofitable ties with Cerialis and Paetus.⁵ It is against this background that his attitude to Egnatius Celer must be weighed, and concomitant pressure on Mucianus to condone the prosecution with that becomes still more credible.

A second question emerges at once: is it a coincidence that Celer was indicted first, or the result of deliberation? While the nature of the evidence does not

¹ G. B. Townend, *JRS* 51 (1961), 57 n.10.

² See H. W. Ritter, 'Zur Lebensgeschichte der Flavia Domitilla, der Frau Vespasians', *Historia* 21 (1972), 759–61. Ritter's contention cannot be discounted simply because the *lex Iulia de maritandis ordinibus* prohibited the marriage of a senator and freed-woman (*Dig.* 23.2.44 *praeft.*). Vespasian could have petitioned for exemption from the law, and if he did so early in A.D. 39 Gaius, who had already favoured his political career (Suet. *Vesp.* 2: 'aedilitatis ac mox praeturae candidatus, illam non sine repulsa sextoque vix adeptus est loco, *hanc prima statim petitione et in primis*'), certainly would have readily assented. Two items argue precisely this date for the marriage: Suetonius links it (*Vesp.* 3.1) with Vespasian's activity as praetor (2.3), and Titus was born on 30 Dec. of that year; see A. W. Braithwaite, *C. Suetoni Tranquilli Divus Vespasianus* (Oxford, 1927), pp.24–5.

³ Cf. G. B. Townend, *JRS* 51 (1961), 58; A. R. Birley, 'Petillius Cerialis and the Conquest of Brigantia', *Britannia* 4 (1973),

182.

⁴ Her paternal grandfather, Q. Marcus Barea, was proconsul of Africa in A.D. 41/2–42/3 (*CIL* 8.11002, 19492; *AE* 1935, 32, 1951, 85); cf. F. Miltner, 'Marcus' no. 37, *RE* 14 (1930), 1549; B. E. Thomasson, *Die Statthalter der römischen Provinzen Nordafrikas von Augustus bis Diocletianus*, ii (Lund, 1960), 31–2. He seems to have been the source of the family's *splendor*.

⁵ Both were honoured during his reign with undeserved consular legateships. A. Garzetti, 'L. Cesennio Peto e la rivalutazione flaviana di personaggi neroniani', *Mélanges d'archéologie et d'histoire offerts à André Piganiol* (Paris, 1966), p.788, has argued that Paetus was appointed governor of Syria because of his eastern experience, but E. Groag, 'Caesennius' no. 9, *RE* 3 (1899), 1309, has correctly emphasized the decisive impact of the marital bond. Dynastic considerations will have similarly prompted the dispatch of Cerialis to Germany and Britain.

encourage an unequivocal response, a circumstantial case can at least be constructed for the latter alternative.

The primary objective of the Stoic group in the Senate, it is clear from Tacitus, was the judicial condemnation of the senior Neronian delators, Eprius Marcellus in particular. As has already been mentioned, Helvidius attempted a frontal assault during the principate of Galba, and his lack of success was clearly attributable to the ambiguous posture which that emperor assumed.¹ The change of regimes offered a second chance, and may have dictated a new tactic: where confrontation had failed, a tangential approach might succeed. That is to say, Marcellus might still be overwhelmed if a pattern of unopposed and successful prosecutions could be established. The crux of the problem would thus be to select an initial victim whose indictment Mucianus would countenance or even actively support. It may, then, have been in this context that Musonius Rufus and those with whom he consulted fastened upon Egnatius Celer.

If there was such a gambit, then it was doomed to frustration. Mucianus did intervene to save Marcellus, and more. He was graced with a proconsulship of Asia which endured for a triennium—striking evidence of imperial favour.² His hopes for justice dashed, Helvidius might well have termed the new government, like Tacitus, 'magis alii homines quam alii mores' (*Hist.* 2.95). That he was compelled to witness the accuser of Thrasea honoured among the *amici principis* almost certainly spurred his relentless and ultimately fatal obstructionism.

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¹ Tac. *Hist.* 4.6: 'ruina soceri in exilium pulsus, ut Galbae principatu rediit, Marcellum Eprium, delatorem Thraseae, accusare adgreditur. Ea ultio, incertum maior an iustior, senatum in studia diduxerat: nam si caderet Marcellus, agmen reorum sternebatur. Primo minax certamen et egregiis utriusque orationibus testatum;

mox dubia voluntate Galbae, multis senatorum deprecantibus, omisit Priscus . . .

² A.D. 70/1–72/3 (*ILS* 992 = McCrum–Woodhead 271); see W. Eck, *Senatoren*, pp. 83 n. 31, 235. A. B. Bosworth, 'Vespasian and the Provinces: Some Problems of the Early 70's A.D.', *Athenaeum* N.S. 51 (1973), 76, very neatly terms it 'a change of air'.